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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,862	09/04/2003	Georg Mayer	944-004.033	8591
4955	7590	10/06/2006	EXAMINER PHAM, CHRYSTINE	
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468			ART UNIT 2192	PAPER NUMBER

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,862

Applicant(s)

MAYER, GEORG

Examiner

Chrystine Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to application 10/656862 filed on September 4th 2003.
Claims 1-17 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-6, 8-14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Donohue (Us 6,202,207 B1).

Claim 1

Donohue teaches a method of finding out about and downloading software updates (see at least FIGS.4A-B & associated text), comprising the steps of:
sending a subscribe request for software updates regarding an application of a user terminal (see at least 200 FIG.4A & associated text), receiving an initial notify message having content defined by an event package, the initial notify message describing at least one available software version (see at least 230-240 FIG.4A & associated text), checking if the user terminal has the available software version (see at least 250 FIG.4A & associated text), and if not then automatically downloading an update to obtain the available software version (see at least 280 FIG.4B & associated text), or giving the

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user a choice whether to download and obtain the available software version (see at least 410, 260 FIG.4A & associated text), receiving a further type of notify message having content defined by the event package, the further type of notify message describing at least one newly available update (see at least 290-400 FIG.4B & associated text), and downloading the newly available update (see at least 310 FIG.4B & associated text) unless the user gets and exercises an option to not receive the newly available update (see at least *preset criteria, software updates* col.6:50-59), wherein the at least one available software version was available to subscribers prior to the standardized subscribe request (see at least 410 FIG.4A & associated text), but the newly available update is newly available to subscribers when the further type of notify message is received (see at least 290-350 FIG.4B & associated text).

Claim 3

The rejection of base claim 1 is incorporated. Donohue further teaches wherein the further type of notify message is sent substantially simultaneously to the user terminal and to other user terminals (see at least *updater component, synchronizing updates* col.4:5-col.7:30), but wherein the initial notify message is sent only to the user terminal and is sent to the user terminal substantially immediately after the standardized subscribe request is received and acknowledged (see at least 410, 200-260 FIG.4A & associated text).

Claim 4

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The rejection of base claim 1 is incorporated. Donohue further teaches wherein the steps encompass, or are also performed for, at least one other application of the user terminal (see at least 30, 20, 30', 20' FIG.1 & associated text).

Claim 5

The rejection of base claim 1 is incorporated. Donohue further teaches wherein the subscribe request is sent to a centralized software server in the network (see at least 200, 220, 340, 10, 40, 90, 80 FIG.3 & associated text).

Claim 6

The rejection of base claim 1 is incorporated. Donohue wherein the subscribe request is sent to a respective server of a software provider (see at least 50, 50' FIG.3 & associated text).

Claim 8

The rejection of base claim 1 is incorporated. Donohue further teaches wherein the sending step and the receiving step are each followed substantially immediately by transmitting an okay response (see at least FIGS.4A-4B & associated text).

Claim 9

Donohue teaches a computer-readable medium or media for use in a user terminal, the medium being encoded with a data structure for performing the method of claim 1 (see

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at least 20 FIG.3 & associated text).

Claim 10

Claim recites a system version for performing the method, which has been addressed in claim 1, therefore, is rejected for the same reasons as cited in claim 1.

Claim 11

The rejection of base claim 10 is incorporated. Donohue further teaches wherein the at least one application includes applications from at least two software providers (see at least 50, 50' FIG.3 & associated text).

Claim 12

The rejection of base claim 10 is incorporated. Donohue further teaches wherein the event package requires at least one set of information as to software name, update server address, update retrieval protocol, and latest version (see at least FIG.2 & associated text; 210-230 FIG.4A & associated text).

Claim 13

The rejection of base claim 10 is incorporated. Donohue further teaches wherein the software server is a centralized software server (see at least 50, 50' FIG.3 & associated text).

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Claim 14

The rejection of base claim 10 is incorporated. Donohue further teaches wherein the software server is a software provider server (see at least 50, 50' FIG.3 & associated text).

Claim 16

Claim recites limitations, which have been addressed in claim 1, therefore, is rejected for the same reasons as cited in claim 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donohue in view of Lauzon et al. (US 7,050,861 B1, "Lauzon").

Claim 2

The rejection of base claim 1 is incorporated. Donohue further teaches wherein the event package requires at least one set of information as to software name, update server address, update retrieval protocol, and latest version (see at least FIG.2 &

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associated text; 210-230 FIG.4A & associated text). Donohue does not expressly disclose does not expressly disclose wherein the method utilizes and is formatted based upon an application layer protocol known as Session Initiation Protocol. However, Lauzon discloses wherein the method of upgrading software which utilizes and is formatted based upon an application layer protocol known as Session Initiation Protocol (see at least col.19:8-35). Donohue and Lauzon are analogous art because they are both directed to downloading software updates. It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to incorporate the teaching of Lauzon into that of Donohue for the inclusion of SIP. And the motivation for doing so would have been facilitate easier and faster upgrades for SIP clients (see at least Lauzon col.9:60-col.10:37; col.19:8-25).

Claims 15 and 17

Claims recite limitations, which have been addressed in claim 2, therefore, are rejected for the same reasons as cited in claim 2.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Donohue in view of Crawford (US 7,080,051 B1).

Claim 7

The rejection of base claim 2 is incorporated. Donohue further teaches wherein the information further includes a latest update date (see at least *Last_Growth_Time*

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col.19:10-30). Donohue does not expressly disclose wherein the information further includes an update price. However, Crawford discloses a method and system for purchasing (i.e., downloading) software updates wherein the user is presented with a software update charge (i.e., update price) before the actual downloading (see at least 436, 438, 444 FIG.8B & associated text). Donohue and Crawford are analogous art because they are both directed to software updates. It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to incorporate the teaching of Crawford into that of Donohue for the inclusion of update price. And the motivation for doing so would have been to facilitate online support services (i.e., release update services) for customers (see at least Crawford Abstract).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chrystine Pham whose telephone number is 571-272-3702. The examiner can normally be reached on Mon-Fri, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CP
October 1, 2006



TUAN DAM
SUPERVISORY PATENT EXAMINER